

2023 Regular Session

HOUSE BILL NO. 155

BY REPRESENTATIVE BUTLER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CAPITAL OUTLAY: Establishes the Louisiana Rural Infrastructure Revolving Loan Program to provide financial assistance to local governments and political subdivisions for certain capital infrastructure projects

1 AN ACT

2 To enact Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to

3 be comprised of R.S. 39:462.1 through 462.7, and R.S. 39:1367(E)(2)(b)(x), relative

4 to the funding and financing of certain capital projects; to provide a funding source

5 for certain capital expenditures by local governments; to establish the Louisiana

6 Rural Infrastructure Revolving Loan Program; to provide for the administration,

7 investment, and disposition of certain monies; to establish eligibility criteria; to

8 provide for requirements and limitations; to authorize the State Bond Commission

9 to incur debt and issue bonds, notes, or other evidences of indebtedness and to

10 guarantee the debt of certain other entities; to authorize loans from the commission

11 for certain eligible infrastructure projects; to provide procedures for local

12 governments to enter into indebtedness and provide for repayment of indebtedness;

13 to exempt interest on such indebtedness from taxation; to establish the Louisiana

14 Rural Infrastructure Revolving Loan Program Fund; to provide for the deposit, use,

15 and investment of monies into the fund; to authorize the legislative auditor to review

16 certain applications; to require certain reports; to provide for effectiveness; and to

17 provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

1 Section 1. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of
2 1950, comprised of R.S. 39:462.1 through 462.7, and R.S. 39:1367(E)(2)(b)(x) are hereby
3 enacted to read as follows:

4 CHAPTER 3-C. LOUISIANA RURAL INFRASTRUCTURE

5 REVOLVING LOAN PROGRAM

6 §462.1. Louisiana Rural Infrastructure Revolving Loan Program; purposes

7 A. The legislature finds that:

8 (1) State government has assisted in funding many local capital outlay
9 projects that are necessary to provide local facilities, but the choice involved with
10 this state funding is to either reduce the amount of funding available for state
11 programs and services or ignore the need for assistance to local governments.

12 (2) Even with established state and federal government programs to assist
13 local governments with needed and necessary funding for infrastructure projects,
14 including those for clean water and sewerage projects, local governments encounter
15 financial challenges in meeting local contributions required by the existing state
16 capital outlay program and other infrastructure programs.

17 (3) The most effective way of accomplishing the goal of providing for local
18 infrastructure project financing and for preservation of the state fisc over the long
19 term is to establish a low-interest-rate revolving loan fund to be available for local
20 infrastructure projects to provide an alternative means to fund appropriate local
21 infrastructure projects that would otherwise compete with scarce state funding for
22 state projects.

23 B. To continue to provide required funding for the planning, design,
24 construction, and maintenance connected with needed infrastructure projects, it is the
25 purpose of this Chapter to provide for the establishment and administration of a
26 program to make loans from a revolving loan fund to assist eligible local
27 governments in funding eligible infrastructure projects, and enter into cooperative
28 endeavor agreements and interstate compacts as may be necessary and proper to
29 fulfill the purposes of this Chapter.

1 §462.2. Louisiana Rural Infrastructure Revolving Loan Program; definitions

2 The following terms as used in this Chapter shall have the following
3 meanings:

4 (1) "Approved infrastructure program" means a program through which an
5 eligible infrastructure project may be funded including but not limited to the
6 following programs:

7 (a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq.,
8 administered by the division of administration, office of facility planning and
9 control.

10 (b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301
11 et seq.

12 (c) Drinking Water Revolving Loan Fund established pursuant to R.S.
13 40:2821 et seq.

14 (2) "Commission" means the State Bond Commission.

15 (3) "Certifying department" means a state department or agency with
16 authority to administer and approve an eligible infrastructure project in accordance
17 with laws and regulations governing the respective approved infrastructure program.
18 The State Bond Commission is the certifying department for emergency requests.

19 (4) "Department" means the Department of the Treasury.

20 (5) "Eligible infrastructure project" or "project" means a plan or proposal
21 approved by the respective certifying department which would require or use a local
22 match or other required local contribution, or require funding for eligible
23 infrastructure project costs that can be provided by the commission. "Eligible
24 infrastructure project" includes an emergency request.

25 (6) "Emergency request" means a project request submitted by a local
26 government to a certifying department between legislative sessions that is essential
27 to alleviate conditions that are hazardous to life, health, or property. "Emergency
28 request" includes but is not limited to funding for a project that has an anticipated
29 useful life of less than twenty years and a value or cost of less than fifty thousand

1 dollars and that would not otherwise qualify for funding in an approved
2 infrastructure program.

3 (7) "Loan" means the loan from the commission to the local government
4 evidenced by a bond, note, or other evidence of indebtedness as provided in this
5 Chapter. The maximum amount of a loan that may be funded through the revolving
6 loan fund is one million five hundred thousand dollars.

7 (8) "Local" or "local government" for purposes of this Chapter means a
8 political subdivision as defined in Article VI, Section 44 of the Constitution of
9 Louisiana which has a population of less than fifteen thousand according to the latest
10 federal decennial census. A local government shall be limited to one loan from the
11 revolving loan fund until the loan is paid in full.

12 (9) "Revolving loan fund" means the Louisiana Rural Infrastructure
13 Revolving Loan Program Fund established in R.S. 39:462.3.

14 §462.3. Louisiana Rural Infrastructure Revolving Loan Program Fund

15 A. There is hereby established a revolving loan fund in the state treasury to
16 be known as the "Louisiana Rural Infrastructure Revolving Loan Program Fund",
17 hereinafter referred to in this Chapter as the "fund", which shall be maintained and
18 operated by the department. The source of monies deposited in and credited to the
19 fund shall be all grants, gifts, and donations received by the state for the purpose of
20 funding the fund; any money appropriated by the legislature to the fund; the
21 repayment of principal of and interest on loans and other obligations made to local
22 governments financed from the fund; administrative fees; and other revenues as may
23 be provided by law.

24 B. Money in the fund shall be invested by the state treasurer in the same
25 manner as money in the state general fund. Interest earned on the investment of the
26 money in the fund shall be credited to the fund after compliance with the
27 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative
28 to the Bond Security and Redemption Fund. All unexpended and unencumbered
29 money in the fund at the end of a fiscal year shall remain in the fund.

1 C. The repayment of principal of and interest on loans and other obligations
2 made to local governments financed from the fund shall be deposited into the fund
3 and may be used to finance loans and obligations for projects of other local
4 governments if reserves for expenditures for the administration of the fund that the
5 department deems necessary and prudent are retained in the fund.

6 D. The department may, by suit, action, mandamus, or other proceedings,
7 protect and enforce any covenant relating to and the security provided in connection
8 with any indebtedness issued pursuant to this Chapter, and may, by suit, action,
9 mandamus, or other proceedings enforce and compel performance of all duties
10 required to be performed by the governing body and officials of any borrower and
11 in any proceedings authorizing the issuance of bonds or other evidences of
12 indebtedness.

13 E. The department shall promulgate rules and regulations in accordance with
14 the Administrative Procedure Act, as are necessary, for the following:

15 (1) To adopt a schedule of reasonable fees and charges to pay for the costs
16 of administering the fund.

17 (2) To respond to emergency requests and to consider loan applications for
18 eligible emergency projects that have an anticipated useful life of less than twenty
19 years and a value or cost of less than fifty thousand dollars.

20 (3) To implement the provisions of this Chapter.

21 F. The department may enter into contracts and other agreements in
22 connection with the operation of the fund.

23 §462.4. Revolving loan fund; eligibility requirements; loans for eligible
24 infrastructure projects; authorizing and issuing debt; security; interest rates;
25 tax exemption

26 A.(1) Notwithstanding any provision of law to the contrary, and in addition
27 to the authority to lend or borrow money or incur or guarantee indebtedness provided
28 by any other provision of law, sums on deposit in and credited to the fund may be
29 loaned to local governments for use in connection with eligible infrastructure

1 projects. However, this Section shall not be deemed to be the exclusive authority
2 under which a local government may borrow money or incur indebtedness.

3 (2) In order for a local government to be eligible for a loan pursuant to the
4 provisions of this Chapter, the local government shall comply with all of the
5 following:

6 (a) The local government shall demonstrate it has financial resources and a
7 financial strategy for the duration of the lifecycle of the project to ensure the project
8 is sufficiently funded, maintained, and replaced as needed.

9 (b) The local government shall be in good-standing and comply with the
10 audit requirements provided for in R.S. 24:513 at the time the local government
11 applies for and receives the loan as well as during the duration of the term of the
12 loan.

13 (3) A local government is limited to one loan from the revolving loan fund;
14 however, once all of the principal, interest, and any other fees and obligations due
15 under the loan agreement are paid in full, the local government may apply for a new
16 loan from the revolving loan fund.

17 (4) No loan shall be made nor debt evidencing the loan be issued or incurred
18 without the approval of the commission.

19 B. All bonds, notes, or other evidences of indebtedness of any local
20 government issued to represent a loan shall be authorized and issued pursuant to a
21 resolution or ordinance of the governing authority of that entity, hereinafter referred
22 to collectively as "resolution". The resolution shall prescribe the form and details
23 thereof, including the terms, security for, manner of execution, repayment schedule,
24 and redemption features thereof, and the resolution may provide that an officer of the
25 entity may execute in connection with the obligation any related contract, including
26 but not limited to a credit enhancement device, indenture of trust, loan agreement,
27 pledge agreement, or other agreement or contract needed to accomplish the purposes
28 for which the evidence of indebtedness is given, in substantially the form referenced
29 in the resolution, but which final executed credit enhancement device, indenture of

1 trust, loan agreement, pledge agreement, or other contract or agreement may contain
2 changes, additions, and deletions as shall in the sole opinion of the executing officer
3 be appropriate under the circumstances. The resolution shall include a statement as
4 to the maximum principal amount of any obligation, the maximum interest rate to
5 be incurred or borne by the obligation or guaranteed by the obligation, the maximum
6 redemption premium, if any, and the maximum term in years for the obligation,
7 guarantee, or pledge.

8 C. Notwithstanding any other provision of law to the contrary, a local
9 government, upon entering into a loan as provided in this Chapter, may dedicate and
10 pledge a portion of any revenues it has available to be pledged and dedicated,
11 including but not limited to revenues from the general revenue fund, sales taxes,
12 sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a
13 sufficient term to repay the principal of, interest on, and any premium, administrative
14 fee or other fee or cost incurred, in connection with the loan.

15 D. Any evidence of indebtedness authorized pursuant to this Chapter shall
16 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the
17 resolution authorizing and providing for the issuance thereof. Any rate or rates of
18 interest may be fixed, variable, or adjustable rates.

19 E. The general laws of the state governing fully registered securities of
20 public entities shall be applicable to the bonds, notes, or other evidences of
21 indebtedness issued pursuant to this Chapter.

22 F. A resolution authorizing a loan pursuant to this Section shall be published
23 once in the official journal or a newspaper of general circulation in the parish or local
24 government entity incurring the loan. It shall not be necessary to publish exhibits to
25 the resolution, but the exhibits shall be made available for public inspection at the
26 offices of the governing authority of the parish, municipality, or other political
27 subdivision at reasonable times, and notice of the availability of these documents
28 shall be stated in the publication within the official journal or newspaper of general
29 circulation in the parish or local government entity incurring the loan. For a period

1 of thirty days after the date of publication, any person in interest may contest the
2 legality of the resolution authorizing the evidence of indebtedness or other loan and
3 any provision thereof made for the security and payment of the debt. After the
4 thirty-day period, no one shall have any cause or right of action to contest the
5 regularity, formality, legality, or effectiveness of the resolution and the provisions
6 thereof or of the bonds, notes, or other evidences of indebtedness or other loan, or
7 to provide for the payment of the debt, or the legality thereof, and all of the
8 provisions of the resolution and evidence of indebtedness shall be conclusively
9 presumed valid, and no court shall have authority or jurisdiction to inquire into the
10 matter.

11 G. Interest on bonds, notes, or other evidences of indebtedness issued for any
12 loan entered into under the authority of this Chapter shall be exempt from all state
13 taxation pursuant to the provisions of R.S. 39:511 and R.S. 47:48. The bonds, notes,
14 or other evidences of indebtedness or loans may be used for deposit with any officer,
15 board, municipality, or other political subdivision of the state in any case where, by
16 present or future laws, deposit of security is required for state funds. Additionally,
17 the proceeds of bonds, notes, or other evidences of indebtedness or loans issued
18 pursuant to the provisions of this Chapter may be used for costs associated with the
19 issuance of bonds, notes, or other evidences of indebtedness.

20 §462.5. General power to issue and incur debt; guarantees of the debt of other
21 entities

22 A. The commission, on behalf of the state, may issue, incur, and deliver debt
23 evidenced by bonds, notes, or other evidences of indebtedness, payable from or
24 secured by sums deposited in, credited to, or to be received by the commission in
25 order to provide monies for deposit into the fund. The commission may undertake
26 and issue and deliver evidences of its guarantee of the debt of other entities and may
27 enter into and execute pledges of the sums deposited in, credited to, or to be received
28 by the commission, including payments pursuant to letters of credit, to secure the
29 debt or performance of obligations of a local government for a project. Bonds, notes,

1 or other evidences of indebtedness, guarantees, and pledges issued and delivered
2 pursuant to this authority shall constitute special and limited obligations of the
3 commission and shall not be secured by the full faith and credit of the state or any
4 source of revenue of the state other than those sums on deposit in or credited to the
5 revolving loan fund, or to be received by the commission, including payments to be
6 made pursuant to letters of credit. Debt issued pursuant to the provisions of this
7 Chapter shall be deemed to be in compliance with the provisions of Article VII,
8 Section 14 of the Constitution of Louisiana.

9 B. In no event shall any bond, note, or other evidence of indebtedness, or
10 guarantee, pledge, or other obligation of any type whatsoever entered into by the
11 commission constitute net state tax supported debt within the meaning of Article VII,
12 Section 6(F) of the Constitution of Louisiana.

13 C. Any withdrawal of monies from the revolving loan fund to pay debt
14 service on any bond, note, or other evidence of indebtedness, obligation of guarantee
15 of any debt, pledge to secure any debt, or fees and associated costs to administer a
16 loan shall not constitute and shall not be subject to appropriation by the legislature
17 as provided by Article III, Section 16 of the Constitution of Louisiana.

18 §462.6. Duties of the legislative auditor

19 The legislative auditor may review all loan applications for compliance with
20 the provisions of this Chapter. The state treasurer and the loan applicant shall be
21 responsible for providing the legislative auditor with all claims and necessary
22 documentation to carry out his reviews.

23 §462.7. Reports to the legislature

24 Beginning January 1, 2026, and every two years thereafter, the commission
25 shall issue a report to the House Committee on Ways and Means and the Senate
26 Committee on Revenue and Fiscal Affairs which includes information on the number
27 of loans approved by the commission, outstanding loan balances, including principal
28 and interest, the status of any debt sold to provide monies for the fund, costs incurred

Proposed law requires money in the fund to be invested by the state treasurer in the same manner as money in the state general fund and requires interest earned on the investment of the money in the fund to be credited to the fund after compliance with the requirements of present constitution relative to the Bond Security and Redemption Fund. All unexpended and unencumbered money in the fund at the end of a fiscal year shall remain in the fund.

Proposed law limits the maximum amount of a loan that may be funded through the revolving loan fund to \$1.5M.

Proposed law defines a "local government" for purposes of proposed law as a political subdivision with a population of less than 15,000 according to the latest federal decennial census. Further limits a local government to one loan from the revolving loan fund until the loan is paid in full; however, once all of the principal, interest, and any other fees and obligations due under the loan agreement are paid in full, the local government may apply for a new loan from the revolving loan fund.

Proposed law requires a local government to comply with all of the following in order to be eligible for a loan pursuant to the provisions of proposed law:

- (1) Demonstrate it has financial resources and a financial strategy for the duration of the lifecycle of the project to ensure the project is sufficiently funded, maintained, and replaced as needed.
- (2) Be in good-standing and comply with audit requirements provided for in present law at the time of applying for and receiving the loan as well as during the duration of the term of the loan.

Proposed law authorizes the Dept. of the Treasury, hereinafter "Treasury", to promulgate rules in accordance with present law (Administrative Procedure Act) as are necessary to implement the provisions of proposed law including rules to adopt a schedule of reasonable fees and charges to pay for the costs of administering the fund and rules to respond to emergency requests.

Proposed law requires that before a loan or other assistance may be requested from the commission, the project shall first have been approved by the "certifying department". Designates the State Bond Commission (SBC) as the certifying department for emergency requests.

Proposed law defines an "emergency request" as an eligible infrastructure project request submitted by a local government between legislative sessions that is essential to alleviate conditions that are hazardous to life, health, or property. "Emergency request" includes projects that have an anticipated useful life of less than 20 years and a value or cost of less than \$50,000 that would not otherwise qualify for funding in an approved infrastructure program.

Proposed law, with respect to a bond, note, or other evidence of indebtedness of a local government issued through a loan, provides for the same requirements concerning interest rates and public notice as provided in present law concerning the adoption of a resolution or ordinance authorizing the issuance of indebtedness.

Proposed law authorizes a local government to pledge as security for a loan and any ancillary fees or other costs, any revenues from its general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes.

Proposed law exempts from taxation, any interest on bonds, notes, or other evidences of indebtedness issued through a loan.

Proposed law for purposes of security of debt or performance obligations of debt for projects, authorizes the commission to issue and deliver evidences of its guarantee of the debt of other entities, and to execute pledges of the monies on deposit in the commission, including payments pursuant to letters of credit. All evidences of indebtedness, guarantees, and pledges delivered pursuant to this authority shall constitute limited obligations of the commission and shall not be secured by the full faith and credit of the state.

Proposed law provides that the withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee of any debt, or pledge to secure any debt, or fees and associated costs to administer a loan shall not constitute or be subject to appropriation by the legislature.

Proposed law authorizes the legislative auditor to review all applications for compliance with the provisions of proposed law.

Proposed law requires, beginning Jan. 1, 2026, and every two years thereafter, the SBC to issue a report to the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee which includes information on the number of loans approved by the commission, outstanding loan balances, including principal and interest, the status of any debt sold to provide monies for the fund, costs incurred by the SBC to administer the fund, and the status of rules adopted by the SBC.

Present law provides for the definition of "net state tax supported debt" and includes those issuances excluded from the definition.

Proposed law retains present law and adds as an exclusion, any bond, note, certificate, warrant, reimbursement obligation, or other evidence of indebtedness issued pursuant to proposed law.

Effective July 1, 2023.

(Adds R.S. 39:462.1-462.7 and R.S. 39:1367(E)(2)(b)(x))